

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SABA Y. TESFAZGI & MERHAWI K. MEBRAHTU, SP 2014-MA-002 Appl. under Sect(s). 8-914 of the Zoning Ordinance to permit modification of minimum yard requirements based on error in building location to permit addition to remain 5.3 ft. from side lot line. Located at 5009 Lincoln Ave., Alexandria, 22312, on approx. 24,773 sq. ft. of land zoned R-2. Mason District. Tax Map 72-3 ((10)) 11. Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 2, 2014; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the property.
2. Based on the record before the Board, it appeared that the bulk of the structure has been there like that for a long time. It started out as a carport, but the roof would have been there, and then it became a screened porch, and now it is a room. But it is basically the same as it has been all along.
3. It is not significantly infringing on anyone else's rights. From the photographs, it does not seem like it would bother anyone.
4. There does not seem to be any opposition expressed to it.
5. It is more than five feet from the property line, so even though it is closer than it should be, if the inspections go according to plan, there will not be a building code problem with the side line being that close.
6. It is within the range of approvable mistakes.
7. It appears that the applicant did not do this. He bought the house that had this problem and did not know. That establishes that this was done in good faith.
8. The Board has found that all of the criteria in the mistake section resolution have been met.

THAT the applicant has presented testimony indicating compliance with Sect. 8-006, General Standards for Special Permit Uses, and the additional standards for this use as contained in the Zoning Ordinance. Based on the standards for building in error, the Board has determined:

- A. That the error exceeds ten (10) percent of the measurement involved;

- B. The non-compliance was done in good faith, or through no fault of the property owner, or was the result of an error in the location of the building subsequent to the issuance of a Building Permit, if such was required;
- C. Such reduction will not impair the purpose and intent of this Ordinance;
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity;
- E. It will not create an unsafe condition with respect to both other property and public streets;
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner; and
- G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

AND, WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

- 1. That the granting of this special permit will not impair the intent and purpose of the Zoning Ordinance, nor will it be detrimental to the use and enjoyment of other property in the immediate vicinity.
- 2. That the granting of this special permit will not create an unsafe condition with respect to both other properties and public streets and that to force compliance with setback requirements would cause unreasonable hardship upon the owner.

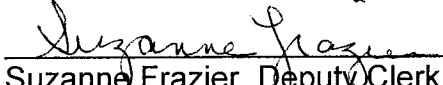
NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED**, with the following development conditions:

- 1. This special permit is approved for the location of the addition as shown on the plat prepared titled, Plat Showing Special Permit Plat, Lot 11, Section 1, Lincolnia Park," prepared by Michael L. Flynn of Alexandria Surveys, LLC, dated August 30, 2013, and received by the Department of Planning and Zoning on February 27, 2014.
- 2. All applicable permits and final inspections shall be obtained for the addition within 180 days of the approval of this application.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Mr. Hammack seconded the motion, which carried by a vote of 7-0.

A Copy Teste:


Suzanne Frazier, Deputy Clerk
Board of Zoning Appeals